



COMMONWEALTH OF MASSACHUSETTS  
**Board of Registration  
of  
Hazardous Waste Site Cleanup Professionals**

**MINUTES  
of  
BOARD MEETING**

Held on  
**July 30, 2007**

Meeting Location: New Bedford Whaling Museum  
18 Johnny Cake Hill  
New Bedford, Mass.

Prepared by: A. Fierce

[Approved: Sept. 12, 2007]

1. **Call to Order:** Chairperson Janine Commerford called the meeting to order at 2:58 p.m. The other Board members present were Gail Batchelder, Kirk Franklin, Christophe Henry, Gretchen Latowsky, Robert Luhrs, Debbie Phillips, and Kelley Race. Board members Deborah Farnsworth, Paul Mullen, and Debra Stake were absent. The LSP Board staff members present were Allan Fierce, Terry Wood, Lynn Read, Brian Quinlan, and Al Wyman. Also present was Carl Shapiro from the LSP Association.
2. **Announcements:** There were no announcements.
3. **Agenda:** The Board agreed to add "Request for Advisory Ruling" to the end of the agenda, if time permits. Otherwise, this topic will be placed on the agenda for the next meeting.
4. **Minutes:** The Board reviewed the draft minutes of the meeting of the Board held on June 20, 2007. **A motion was made and seconded to approve the minutes as drafted. The motion was approved unanimously.**
5. **Report from Quasi-Judicial Sessions – Final Disciplinary Actions Taken:** Ms. Commerford stated that there would be at least one final disciplinary action to report at the next meeting.
6. **FY-2008 Program Priorities:** The Board discussed the draft FY-08 Program Priorities document that Mr. Fierce handed out at the previous meeting (June 20). Fiscal year 2008 runs from July 1, 2007, to June 30, 2008. Proceeding section by section, the Board agreed upon a number of changes to the draft document. [The resulting amended set of

FY-2008 Program Priorities is attached at the end of these Minutes.] **A motion was made to adopt the amended document as the Board's Final Program Priorities for FY-2008. The motion was approved unanimously.**

7. **Decisions Regarding License Applicants:** The staff presented the following Application Docket:

<u>Docket No. 1:</u> The applicant's name, company name, application number, and Application Review Panel recommendation were read into the record:				
			<u>ARP</u>	<u>REC.</u>
Geoffrey R. Souza	SITEC Environmental, Inc.	#4122	203	D

No Board members were recused.

**A motion was made and seconded that the Board accept the recommendation from Application Review Panel #203, i.e., that the application submitted by Mr. Souza be denied for the reasons set forth in the draft denial letter and that he be found ineligible to take an exam. The motion was approved unanimously.**

8. **License Renewal Applications:** The staff presented the following License Renewal Dockets:

Mr. Henry was recused and left the room.

<b>Renewal Docket #1</b>	
Renewal Date: April 30, 2007	
Received a 90-day extension.	
Have met all requirements for renewal.	
New Renewal Date: April 30, 2010	
1. Fogarty, Katherine	#6645
2. Giordano, Edward F.	#5448
3. Sullivan, James K.	#1259

<b>Renewal Docket #2</b>
Renewal Date: July 30, 2007

Have met all requirements for renewal.  
New Renewal Date: July 30, 2010

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|-----------------------------|-------|
| 1. Burnell, Peter P.        | #6260 |
| 2. Callanan, Joseph         | #2465 |
| 3. Corcoran, Patrick D.     | #9810 |
| 4. Curtis, James T.         | #1548 |
| 5. Dentch, Mathew           | #6658 |
| 6. Fleming, Steven T.       | #7236 |
| 7. Henry, Christophe        | #6364 |
| 8. Irvine, Virginia A.      | #9687 |
| 9. Jacobs, Elliot B.        | #3194 |
| 10. Mariano, Christopher G. | #9197 |
| 11. Marshall, Philip        | #2868 |
| 12. Matz, James             | #5323 |
| 13. McBain, Philip D.       | #5121 |
| 14. McCreery, Charles J.    | #9090 |
| 15. Miller, Valerie, A.     | #7496 |
| 16. Miller-Kleiner, Theresa | #3494 |
| 17. Parker, James P.        | #4437 |
| 18. Paul, Michele           | #4129 |
| 19. Penzo, Michael A.       | #3606 |
| 20. Pierce, Douglas S.      | #1500 |
| 21. Ross, Bruce C.          | #4284 |
| 22. Sherrin, Alex           | #7256 |
| 23. Snay, Timothy J.        | #3373 |
| 24. Soukup, James           | #5888 |
| 25. Stiller, Andrea         | #2893 |
| 26. Tolosko, Jerry J.       | #3835 |
| 27. Welsh, Mark             | #9282 |

**Renewal Docket #3**

Renewal Date: July 30, 2007

Qualifies for and is requesting a 90-day extension.

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| 1. Longval, Brian W. | #4057 |
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**A motion was made and seconded to renew the licenses of the LSPs on Renewal Dockets #1 and #2 for a three-year period ending on the dates indicated and to grant a 90-day extension to the LSP on Docket #3. The motion was approved unanimously.**

Mr. Henry returned and rejoined the meeting.

9. **Other Licensing-Related Matters:**

- A. **New Panel Assignments and Scheduling.** Mr. Quinlan sought and obtained volunteers for Application Review Panel #205 (Ms. Commerford, Ms. Latowsky, and Ms. Race).
- B. **Appeals Status Report.** Ms. Wood reported that the license applicant in the pending license application appeal, Cynthia Gilchrist, has agreed to forego her appeal.
- C. **Inactive Status Report.** The staff reported that LSP **Scott Shelton** (#9577) was placed on Inactive Status at the close of business on July 27, 2007, at his request.
- D. **Total Number of Active LSPs.** Mr. Fierce reported that the total number of Active LSPs as of the date of this meeting was 560.

10. **Examinations:**

- a. **New Licensees.** Mr. Fierce reported that the exam has not been administered since last month's meeting. Therefore, there are no new licensees.
- B. **Next LSP Exam.** Mr. Fierce reported that the next licensing exam has yet to be scheduled but would likely be sometime in early September.
- C. **LSP Exam Update Project.** Mr. Fierce and Ms. Commerford reported that the Cut-Score Workshop would take place on August 6 and 7. The purpose of the workshop is to establish the passing scores for the Board's revised, updated licensing exams. The Workshop will be led by Dr. Kevin Sweeney, the psychometrician the Board has retained to assist it in this process. The Workshop will take place at Weston & Sampson Engineers, Inc., in Peabody. Mr. Fierce said that he had lined up 16 "raters" in four categories: LSP Board members, "experienced" LSPs, "new" LSPs, and staff from MassDEP. The Board members participating are Janine Commerford, Christophe Henry, Robert Luhrs, and Kelley Race.

11. **Continuing Education Committee Report:**

- A. **Course Approval Requests.** Mr. Henry reported that the Committee had met earlier in the day and had the following course recommendations to present to the full Board:

Sponsor: LSP Association

Course Title: Introduction to Wetland Identification

Credits Requested: 8 Technical credits

Committee Recommendation: **Approve for 8 Technical credits on the condition that the course provider adds additional content relating to MCP work in wetlands and the permitting thereof.** The Committee further recommended that the Continuing Education Coordinator be authorized to review the added content and, if he determines it to be sufficient, to complete the course approval process as appropriate.

Sponsor: LSP Association

Course Title: *Vapor Intrusion and Mitigation Issues Facing LSPs with Special Emphasis on Sampling and Analysis*

Credits Requested: 4 Technical credits

Committee Recommendation: **Approve.**

**A motion was made and seconded to accept the Committee's recommendations. The motion was approved unanimously.**

**B. Other Business – Waiver Request.** Mr. Henry reported that the Committee had received and reviewed a letter dated July 17, 2007, from LSP J. Patrick Byrnes requesting a waiver from the regulatory requirement at 309 CMR 3.06(4) that gives him only one year to renew his license after it has lapsed. If an individual does not renew during that one-year period, s/he must reapply to become licensed again. Mr. Byrnes license lapsed on 7/30/06, and he still needs 4 DEP Course credits. His specific request is that the Board extend his one-year deadline for renewing his license until the next DEP Course is offered, which he anticipates will be sometime this fall.

Mr. Wyman noted that a year ago, when Mr. Byrnes' license lapsed, he needed 12 DEP Course credits and 11 other credits of any type, for a total of 23 credits. He did not qualify for a 90-day extension.

In his letter, Mr. Byrnes explained that he lives and works on Long Island, NY, which requires driving 4-5 hours each way to take Board-approved courses. He stated that "DEP courses are not the most frequently offered courses" and that over the past year "I believe I've made a strong effort to take every DEP course available." He offered no other pertinent reasons why the Board should grant this waiver request.

Mr. Wyman presented a table showing that since Mr. Byrnes' license was last renewed in July 2003, DEP Courses worth a total of 54 DEP Course credits have been offered (42 during his 3-year license period and 12 during the following year).

Mr. Henry explained that, after reviewing Mr. Byrnes' waiver request, the Committee discussed whether it met the requirements of 309 CMR 2.12 for granting such a request, particularly whether Mr. Byrnes had presented sufficient

“good cause” for not obtaining within the past four years the 12 DEP Course credits he needed to renew his license. The Committee concluded that sufficient good cause had not been shown. Therefore, Mr. Henry said, the Committee was recommending that the waiver request be denied.

The Board members present discussed the waiver request and the Committee’s recommendation. At the conclusion of the discussion, **a motion was made and seconded to deny Mr. Byrnes’ waiver request. The motion was approved unanimously.**

12. **Professional Conduct Committee:** Since all the Board members present at this meeting were also present at the Professional Conduct Committee meeting held earlier in the day, the Board agreed to forego a Committee report.
13. **Personnel, Budget, and Fees:**
  - A. **Personnel Report.** Mr. Fierce reported that the hiring process to replace Ms. Hartley is nearing its conclusion. The references have been received; the finalists have been interviewed a second time; and staff is currently preparing the “hiring package” that needs to be submitted to obtain approvals from MassDEP and EOEEA before an offer can be made to the top-ranked candidate.

Mr. Fierce also reported two additional staff developments. Ms. Wood will be returning to full-time status on October 1, 2007, and Jan Reitsma, who has been assisting the Board a part-time basis, will likely be concluding his work for the Board at the end of the summer.
  - B. **Budget.** Mr. Fierce reported that, as expected, the final number for the Board in the FY-2008 state budget is \$377,680. This amount is about \$7,500 more than the Board received in FY-07.
  - C. **Fees.** Mr. Fierce said he had no new information to report about fees.
14. **Status of Board Member Replacements by Governor:** Ms. Commerford reported that the recommendations memo was received last January at the Governor’s appointments office. She said that she would ask MassDEP’s new Commissioner, Laurie Burt, to encourage the Governor to appoint the individuals recommended.
15. **Next Article for LSPA News:** The Board offered a number of suggestions, including that the staff write about the ability of respondent LSPs to resolve their disciplinary complaints at an early stage in the process through agreements for discipline.
16. **Request for Advisory Ruling:** Given the lateness of the hour, it was the consensus of the Board members to table their review and discussion of the draft response to Mr.

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Feldman's advisory ruling request. This matter will be placed on the agenda for the September Board meeting.

17. **Scheduling of Next Meeting:** The Board agreed to hold its next meeting on Wednesday, September 12, 2007, at a location to be determined in or near Boston.
18. **Adjournment:** The meeting was adjourned at approximately 4:30 p.m.

## **LSP Board Final FY-2008 Program Priorities**

At its meeting on July 30, 2007, the Board voted to adopt the following Program Priorities for FY-2008 (July 1, 2007, to June 30, 2008). Priorities have been presented in two categories. **Category I** contains the Board's priority initiatives and challenges for FY 2008. **Category II** contains the goals and standards the Board has established for its other important ongoing activities (e.g., review of license applications).

Within Category I, the Priorities are listed in a general order of importance, i.e., the most important Priorities are listed first. This does not mean that the Board and staff should finish all of Priority #1 in Category I before moving to Priority #2. Many of the tasks listed throughout Category I need to be implemented simultaneously. But if the staff and the Board members have insufficient time to accomplish all tasks or goals listed in Category I, they should focus on accomplishing first the higher-ranked ones.

Category II activities are ongoing, and efforts to meet the goals and standards for these activities will be undertaken throughout the year. Thus, they are not listed in order of priority.

### **Category I (High Priority Initiatives / Activities)**

#### **1. DISCIPLINARY PROCESS:**

- A. Aggressively investigate and resolve the disciplinary complaints in the Board's backlog in a manner that results in their prompt but thorough investigation, and take all steps necessary to enable the fair and prompt adjudication of appeals filed by respondents.
- B. Implement Board Policy #2007-01 and collect and analyze data to document the results and the policy's effectiveness.
- C. Seek funding for an additional attorney and / or investigator to aid in investigating and prosecuting disciplinary cases.
- D. Seek additional LSP Board funding for the expert witnesses needed to effectively prosecute the Board's disciplinary cases.
- E. By end of fiscal year, complete the investigation of, or resolve by consent order, at least ten (10) cases on the Active Disciplinary Cases list.
- F. Formalize alternatives for adjudicatory proceedings in an effort to streamline and shorten the time to obtain a recommended decision while providing due process.

#### **2. EXAM-RELATED ACTIVITIES:**

- A. **Update the Exam.** Complete the exam updating process by creating defensible cut scores for each version, and begin administering the updated exams in September 2007.



- B. **Utilize Exam Software.** In FY-08, begin using the Board's new software to administer and grade exams.
  - C. **Administer Exam In-House.** Continue to administer the exam in-house approximately twice per quarter. Grade exams and notify candidates within two working days of the exam date.
3. **NEW PROFESSIONAL CONDUCT COURSE:** After the Exam Update Project is concluded, reconvene the Course Subcommittee to begin development of a new professional conduct course or to update the previous course.

**Category II**  
**(Other Important Ongoing Activities)**

1. **DISCIPLINARY INFORMATION DISSEMINATION:** Using the Board's website to post summaries of initial and final Board actions, press releases to publicize final Board actions, and the Board's column in the *LSPA News* to publicize selected disciplinary actions taken by the Board, continue to communicate to LSPs and the general public about the disciplinary activities taken by the Board.
2. **LICENSE RENEWAL PROCESS:** Implement an efficient system for renewing the licenses of those LSPs whose licenses expire during this fiscal year, including but not limited to the following:
  - A. At least six weeks before each quarterly renewal date (30<sup>th</sup> of July, October, January, and April), mail out renewal packages; and
  - B. Take the steps necessary to review each renewal application within 10 days of its receipt to ensure that each applicant has in fact obtained the continuing education credits required by 309 CMR 3.09 and paid the Renewal Fee.
3. **APPLICATION PROCESS:** Implement an application processing system that results in the routine processing of all applications on a timely basis, subject to the availability of Board members.
4. **CONTINUING EDUCATION:**
  - A. Process in a timely manner all requests for Board approval of courses and conferences for continuing education credit.
  - B. Maintain a hard copy and database record of each approved course, and post an up-to-date list of upcoming courses on the Board's website.

5. **COLLECTION OF ANNUAL FEES:** Collect an Annual Fee, as required, from each Active and Inactive LSP. Send fee invoices in early January for collection by March 1.
6. **IMPROVEMENTS TO LSP BOARD'S WEBSITE:** With the use of technical assistance provided by MassDEP staff, upgrade the appearance and content of the Board's website. Also take all steps required to ensure that the Board's website is compliant with all accessibility requirements.